


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Application No.: 10/696,279
Filing Date: October 29, 2003
Applicant: Joseph D. Rainville
Group Art Unit: 1745
Examiner: Robert W. Hodge
Title: CENTRIFUGAL COMPRESSOR SURGE
DETECTION USING A BI-DIRECTIONAL MFM IN A
FUEL CELL SYSTEM
Attorney Docket: GP-303951

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

The Examiner has required restriction between Group I, claims 1-14, drawn to a fuel cell system, classified in class 429, subclass 22, and Group II, claims 15-20, drawn to a method of eliminating a surge condition of a compressor, classified in class 429, subclass 13. Applicant hereby elects Group I, claims 1-14, with traverse. For the reasons given below, reconsideration and withdrawal of this Restriction Requirement is requested.

Independent apparatus claim 1 includes a surge detection device, a compressor and a controller, where the controller receives a signal from the surge protection device indicating a compressor surge. Independent method claim 15 includes a method for detecting a surge condition of a compressor in a fuel cell

module, including detecting a reverse airflow, i.e., surge, through the compressor. Applicant submits that a proper search for independent claim 1 would necessarily overlap a proper search for independent claim 15, and vice versa.

Applicant further submits that the Examiner's statement that the method for operating can be used for any fuel cell system that utilizes a compressor and not just a turbo machine compressor of the invention of Group I is improper because independent claim 1 of Group I does not state that the compressor is a turbo compressor, but can be any suitable compressor, such as those identified in dependent claim 3. Therefore, Applicant submits the Examiner has not shown that the inventions of Groups I and II are distinct.

MPEP 808.02 states that the Examiner must explain why there is a serious burden on the Examiner if restriction is not required by showing one of a separate classification of the inventions, a separate status in the art when the inventions are classifiable together and a different field of search. Applicant submits that the Examiner has not shown a proper separate classification and a proper different field of search, and has not identified a separate status in the art.

The Examiner is respectfully reminded of the statement in MPEP 806, where restriction is required by the Office, double patenting cannot be held, and thus, it is imperative the requirement should never be made where related inventions as claimed are not distinct.

For the reasons given above, it is respectfully requested that the Restriction Requirement be withdrawn.

Respectfully submitted,

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